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Chairperson: Mr. Rivas Posada

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Second periodic report of the former Yugoslav Republic of Macedonia (CCPR/C/MKD/2; CCPR/C/MKD/Q/2)

1. *At the invitation of the Chairperson, the members of the delegation of the former Yugoslav Republic of Macedonia took places at the Committee table.*

2. **Mr. Manevski** (the former Yugoslav Republic of Macedonia), introducing the State party's second periodic report (CCPR/C/MKD/2), said that the development of democracy in the Republic of Macedonia was based on the principle of respect for human rights and fundamental freedoms and on the construction of a functional multicultural system. He commended the Committee for its contribution to the promotion and protection of the rights enshrined in the Covenant and stressed that its concluding observations on the initial report had provided valuable input into national policymaking activities.

3. During the reporting period, the Republic of Macedonia had ratified a number of European instruments on civil and political rights, as well as the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime and the Protocols thereto. The ratification procedure in respect of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was under way. A comprehensive overhaul of the national machinery for the promotion and protection of the rights set out in the Covenant had also been undertaken, comprising, inter alia, the establishment of the National Commission for the Rights of the Child, the introduction of mandatory primary and secondary education and the enactment of anti-discrimination legislation.

4. The justice system had also undergone significant reforms in order to strengthen its capacity to guarantee the rights and freedoms of individuals and to ensure that all citizens had equal access to justice. Parliament had adopted a number of legislative amendments designed to enhance judicial independence, as well as a series of new laws on the Judicial Council, public prosecutors and courts, and the Training Academy for Judges and Public Prosecutors had implemented vocational courses for judges, public prosecutors, lawyers and other legal professionals. Legislation on juvenile justice had been codified and, with a view to reducing the backlog of pending cases through greater reliance on out-of-court settlement procedures, the Law on Mediation had been enacted. The Government was also contemplating the introduction of new legislation on free legal aid. A series of steps had been taken with a view to improving prison conditions, including the refurbishment of existing premises, the construction of new facilities and training programmes for staff. In addition, the Ombudsman had launched a programme designed to educate prison inmates about their rights.

5. The Government attached the utmost importance to the fight against corruption and was firmly committed to a policy of zero tolerance. To that end, a number of laws and programmes had been introduced and criminal proceedings had been brought against various high-ranking officials. As far as organized crime was concerned, the Republic's legislation was being brought into line with relevant international standards. In particular, special protective measures had been introduced for underage victims of human trafficking.

6. As a result of the 2001 constitutional amendments and the implementation of the Framework Agreement, a comprehensive reform of the arrangements for the protection and promotion of the rights of members of non-majority communities had been carried out. A strategy on the adequate and equitable representation of members of those communities and an associated action plan had been launched; in 2007 there had been a threefold increase in Government funding for those activities. An institute devoted to the cultural heritage of the ethnic Albanians had been established in 2007 and a new law on the legal status of churches, religious communities and religious groups, which conformed to international standards, was due to enter into force on 1 May 2008. Lastly, a strategy for cooperation with the International Criminal Tribunal for the Former Yugoslavia had been adopted.

7. **The Chairperson** invited the delegation to address questions 1-12 on the list of issues (CCPR/C/MKD/Q/2) and in that connection drew attention to a document containing written responses from the former Yugoslav Republic of Macedonia.

8. **Ms. Geleva** (the former Yugoslav Republic of Macedonia), responding to question 1, said that the Office of the Ombudsman had been established in accordance with the Paris Principles, which had also been partially implemented in the context of the establishment of the Permanent Survey Commission for the Protection of Citizens' Rights and Freedoms. In order to bridge a number of gaps in the institutional framework for the protection of human rights, the Government had also established an inter-ministerial human rights body, which was responsible for coordinating relevant activities carried out by the various ministries and entities, overseeing the implementation of pertinent recommendations issued by the United Nations and the Council of Europe and drafting proposals to further develop national legislation on human rights. A series of measures designed to strengthen that body were currently under review.

9. **Mr. Manevski** (the former Yugoslav Republic of Macedonia), addressing the issue of corruption (question 2), acknowledged that, in the past, the political will to eradicate corruption had been lacking. That situation had changed in 2002, however, with the establishment of the State Commission for the Prevention of Corruption. The Commission had adopted its most recent four-year action plan in 2007 and the Government had recently approved funding for that plan in the amount of €647 million.

10. The fight against corruption was a complex task, requiring, inter alia, strong institutions and competent staff. Efforts were under way to harmonize around 1,500 inherited laws and regulations and the Ministry of the Interior, the Directorate for the Prevention of Money-Laundering and the Office of the Public Prosecutor had all established specialized units dedicated to the repression of organized crime and corruption. In order to increase transparency, all appointed and elected officials were obliged to submit a declaration listing their assets. Members of the public could access those declarations by visiting the website of the State Commission for the Prevention of Corruption. Those who failed to submit a report or who were found to have made a false declaration were subject to penalties and their undeclared assets were taxed at a rate of 70 per cent.

11. Ongoing awareness-raising campaigns had borne fruit, in that public opinion was now firmly in favour of a zero-tolerance policy towards corruption. Enhancing the effectiveness of judicial proceedings in corruption cases was a vital step in the process because the prospect of prosecution was the only way to prevent citizens from falling prey to temptation.

12. **Ms. Trencevska** (the former Yugoslav Republic of Macedonia), speaking to the issue of discrimination against women (question 3), said that, in May 2006, Parliament had adopted the Law on Equal Opportunities for Men and Women, which set out general and special measures to ensure gender equality in various spheres, detailed the responsibilities of the competent entities and provided for sanctions in the event of non-compliance. Furthermore, in order to promote women's participation in political and public life, the Election Code stipulated that at least one in three candidates for national and municipal elections must be of the underrepresented gender. Those measures had yielded the expected results in the 2006 parliamentary elections, meaning that women now accounted for 28 per cent of the total number of parliamentarians. According to data from 2005, similar affirmative action at the local level had resulted in a threefold increase in the number of women elected to municipal councils.

13. **Ms. Lazova** (the former Yugoslav Republic of Macedonia), referring to question 4 concerning measures to combat domestic violence, said that, in 2006, amendments to the Law on the Family, followed in 2007 by the adoption of a Rule Book, had assigned institutional responsibilities in that area and provided for special protection measures, which were also covered by a new law to be adopted by the end of the year. Such measures could be requested from the courts by associations of citizens and were required to be put in place by the competent social work centre within 72 hours. The definition of domestic violence contained in the Law on the Family had been harmonized with the Criminal Code, which likewise offered victims the opportunity to request, revoke or extend special protection measures. In addition, special units had been established in social work centres to care for victims and a network of shelters had been developed in six cities. The Ministry of Labour and Social Policy had also created a national hotline for domestic violence, which received between 120 and 150 calls a month. The Ministry had established its own database in that connection, based on the monthly reports submitted by social work centres. Reports of domestic violence for 2007 broke down the data on

victims according to ethnicity, age and gender, and action taken. In 2005, 146 persons had been charged with such acts, of whom 25 had been given prison sentences. Furthermore, a new strategy to combat domestic violence was to be adopted by the end of the year, which would provide for the opening of advisory centres to help families at risk.

14. **Mr. Zafirovski** (the former Yugoslav Republic of Macedonia), responding to question 5 on the list of issues, said a clear distinction had to be made between the Ministry of the Interior and the police. The function of the former was to formulate government policy, while that of the latter was to carry it out. Article 3 of the Law on the Police stipulated that the main role of the police was to protect the human rights and fundamental freedoms of citizens guaranteed by the Constitution and all applicable international instruments. A police reform process was under way which entailed the adoption of strategic, operational and practical measures. The organizational structure of the police force had been transformed and new job descriptions had been issued, with particular emphasis on the principles of community policing. Only 38 police stations in the country had the authority to detain persons; they had been specially strengthened for that purpose and provided with the logistic support required to ensure humane conditions. In response to the criticisms made by the European Committee for the Prevention of Torture, an action plan had recently been adopted to remedy all the problems identified, including the appropriate treatment of police officers guilty of professional misconduct.

15. **Mr. Manevski** (the former Yugoslav Republic of Macedonia), addressing question 6, said that the appeal filed by the Public Prosecutor against the judgement of the Skopje Court of First Instance had been dismissed by the Supreme Court as ungrounded. While the acquittal of the accused had accordingly been confirmed, the Supreme Court had, without prejudice to the merits, sustained the request for protection of legality. There were no further legal remedies available.

16. Turning to question 7, he said that the International Criminal Tribunal for the Former Yugoslavia had referred a number of cases to the Office of the Public Prosecutor as falling within its competence. That Office would decide whether to reopen or close the cases in accordance with the Criminal Code. Regarding the case of the corpses found in a pit, the four bodies had been identified and the competent authority had initiated a procedure to bring the perpetrators to justice. A police investigation was accordingly under way which had not as yet produced any results.

17. **Ms. Atanasova** (the former Yugoslav Republic of Macedonia) said, with reference to question 8, that the Law on Amnesty, adopted in 2002, set out the grounds on which pardon could be granted for crimes committed during the armed conflict in 2001. Accordingly, a total of 898 persons had been pardoned, 164 under article 1 and 734 under article 2.

18. **Mr. Zafiroski** (the former Yugoslav Republic of Macedonia), taking up question 9, said that the issue of trafficking in human beings was high among the priorities of several State institutions. In view of the complexity of the problem and the many actors involved, a wide-ranging strategy had been developed, which included institutional capacity-building and the further development of the fight against organized crime. All relevant services, notably immigration and money-laundering controls, had been enlisted in the effort to curb such trafficking. In January 2008 the Criminal Code had been amended to provide for specific action against related offences, incorporating in particular the definition of a new crime, namely, trafficking in minors. Moreover, several actions in recent years had met with success in that regard, leading to the rescue of more than 200 persons and the initiation of judicial proceedings against perpetrators, most of whom had been imprisoned. One recently introduced measure provided for the confiscation of assets deriving from trafficking and the compensation of victims. In addition, an intensive media campaign had been launched to develop public awareness of the problem.

19. **Ms. Trencevska** (the former Yugoslav Republic of Macedonia) said that a social rehabilitation programme had been put in place for the victims of such trafficking, including children. A coordinating mechanism had been established by the Ministry of Labour and Social Policy in September 2005 to promote the reintegration of victims. In addition to public awareness campaigns, workshops had been organized on the protection of vulnerable groups, giving training to more than 1,000 professionals. A National Commission on the Fight against Trafficking in Human Beings had also been set up in the Ministry, with both governmental and non-governmental

participation. That had led to the establishment of a national database on perpetrators, with special training in specific software for the database operators. Victims of trafficking could seek refuge in two shelters that has been set up for them, one for foreign victims, the other for nationals; they provided health care and socio-psychological support with a view to complete rehabilitation.

20. **Mr. Manevski** (the former Yugoslav Republic of Macedonia) noted that the Prime Minister had been personally involved in the fight against trafficking in persons and that a number of high-level round-table meetings had been held on the subject, with the participation of members of the judiciary, social workers and other experts concerned.

21. **Mr. Zafirovski** (the former Yugoslav Republic of Macedonia) said that the written reply to question 10 omitted to mention relations between the Ministry of the Interior and the Ombudsman. After some difficulties, they had established good working relations, based on a recognition of their need to cooperate in pursuit of the common goal of safeguarding the human rights and fundamental freedoms of individuals.

22. **Mr. Manevski** (the former Yugoslav Republic of Macedonia) said that the Ombudsman had just published a report on his work in 2007, which had been submitted to Parliament. Of the 950 recommendations issued by his Office, 858 had been followed. The Government had instructed all the bodies concerned to engage in appropriate follow-up and warned of penalties in the event of non-compliance.

23. **Ms. Geleva** (the former Yugoslav Republic of Macedonia), addressing question 11, said that the State party had been very responsive to the concerns expressed by the Council of Europe regarding special detention centres. An ad hoc committee of the European Parliament had visited the country and held talks with all the stakeholders. An internal investigation by the Ministry of the Interior had not revealed any breach of national law.

24. **Mr. Manevski** (the former Yugoslav Republic of Macedonia), turning to question 12, said that, at the beginning of its term of office and upon the proposal of the Ministry of Justice, the Government had carried out a detailed analysis of the national penitentiary system, which had pointed to a general need for reform. Following the analysis, the Ministry of Justice had been asked to develop a programme aimed at improving prison conditions, as well as training and treatment for prisoners; such a programme had been adopted by the Government in 2008 and a loan of €14 million had since been secured to finance the construction, maintenance, and equipping of correctional institutions. In 2007 alone, 80 new staff had been engaged to bolster the prison health and education services. Construction and renovation was already under way for a number of prisons and other projects were awaiting the arrival of funds under the loan secured. In addition, special treatment was being provided under the new programme to the 300 or so drug addicts who required it in the country's largest penitentiary. The Law on Execution of Sanctions had been submitted for review by international experts and would be amended if required. In sum, the Government was eager to remedy the unsatisfactory situation in penitentiary institutions and to bring them into line with international standards.

25. **Ms. Motoc** said that she welcomed the State party's detailed report but regretted that its late submission had hindered its availability in languages other than English. Regarding question 1 on the list of issues, she requested clarification on the "partial" implementation of the Paris Principles referred to by Ms. Geleva. While recognizing that the State party had made major legislative and institutional efforts to curb corruption (question 2), she wondered how effective the new regulations had been. Specifically, how many people had been investigated and sentenced on corruption-related charges? Furthermore, what was the current situation regarding small-scale corruption? To what extent did society operate according to bribes and such dishonest practices?

26. Regarding discrimination against women, still more needed to be done to increase the representation of women in senior positions within the State party's institutions. She enquired how many women worked in the private sector, as that was often a weak point, even in developed countries. Further, what was the image of women in the Republic and what were the authorities doing to promote a positive image? She welcomed the information provided according to which women did make complaints of domestic violence. Noting that, in its statistics on such violence, the State party distinguished victims of Macedonian origin from Roma victims, she asked whether such differentiation was in fact designed to favour minorities or whether it might

be interpreted as a form of discrimination. Regarding the Criminal Code's provisions on rape, had the requirement of proof of penetration and active resistance by victims to secure a rape conviction been removed?

27. She welcomed the State party's efforts to eradicate police violence. However, according to reports received by the Committee, regular acts of police violence continued to occur against Roma. She therefore wished to know what mechanisms were in place for investigating complaints of such violence and how many decisions had been handed down in favour of Roma victims.

28. **Ms. Wedgwood** said that, while historically many conflicts had been resolved through amnesties, there was a strong view in the human rights community that, if there were to be serious deterrents to violating the right to life and the right not to be subjected to torture, amnesty, especially blank amnesty, must be considered with the utmost circumspection; thus, the Law on Amnesty could set a troubling example for other former Yugoslav republics. The number of persons covered by that Law was surprisingly high and she wondered whether its wording excluded crimes of an international nature, such as crimes against humanity or war crimes, which would otherwise be presentable either in international courts or, under universal jurisdiction, in other national courts. She requested additional information on the conditions that had necessitated such wholesale amnesty. Information would also be appreciated on public discussion of the Law on Amnesty and on whether all elements of civil society had concurred in the amnesty. According to her information, amnesty under the Law concerned would cover the murder of six Pakistani and one Indian citizens on 2 March 2002, a case which involved a former Minister of the Interior currently in detention in Croatia. Amnestying a person formerly responsible for supervising the police would surely hamper the Government's attempts to instil democratic principles in the police forces.

29. Additional information on the progress of the four cases returned from The Hague would be appreciated. According to one source, some Macedonian-Albanian political parties asserted that those cases were covered by the Law on Amnesty, but the prosecutor claimed they were not and could be tried in court. In the light of the fact that the State party was seeking full membership of the European Union and the North Atlantic Treaty Organization, had it considered the compatibility of such a broad amnesty with the assumption in European standards that human rights must be fully vindicated?

30. As to the principle of non-refoulement with regard to the right to life, she noted the progress in providing for the judicial review of asylum claims through appeals courts. In that connection, she wondered whether it was the State party's intention to allow the several hundred members of minorities who were refugees from Kosovo to remain in the Republic and provide them with documents, even though their claims had been rejected.

31. Turning to the issue of police violence, she asked what procedures existed for bringing instances of alleged police violence to the attention of the Sector for Internal Control and Professional Standards.

32. **Mr. O'Flaherty** asked to what extent communities of victims had been consulted in drafting and applying the provisions of the Law on Amnesty, given the importance of taking into account the perspective of victims in restorative justice. With regard to trafficking, he commended the best practices that the State party had become known for internationally, and welcomed the extraordinary efforts made to prevent human trafficking, especially that related to children. The 2003 national action plan was a positive step forward. At the same time, he was concerned that the State's serious commitment might not be shared by front-line officials, especially police and judicial officers. How did the State party intend to impart to those officials a better sense of the importance of such policies?

33. He was surprised at the low figures for the awarding of non-pecuniary damages and would appreciate an explanation from the delegation on the reasons for them. In addition, there had been suggestions that assistance schemes had been applied in a selective manner, and he wondered if that perhaps pointed to an underlying problem of perceptions that needed to be addressed. Finally, information had been received according to which the system of protection for victims and witnesses in the courts, although well designed, was not always put into practice; he would welcome the delegation's comments on such reports.

34. He thanked the delegation for the detailed information provided on the existing judicial procedures to review the lawfulness of detention and

asked how the State party was training the police to deal with those issues. It was important to provide such training not only for entry-level recruits but also for established personnel.

35. Regarding the case of Mr. al-Masri, he noted that the State party had maintained its consistent approach of denying any responsibility. That left the Committee in a difficult position, given the extraordinary amount of information it had received in favour of the accused, not to mention the fact that the Committee on the Elimination of Racial Discrimination appeared to have accepted the State party's responsibility in the matter in its concluding observations. To the extent that the State party might in fact have some involvement in the case, a number of issues would be raised in respect of articles 9 and 7 of the Covenant, among others. He noted that, according to the Committee's long-established jurisprudence, if any acts of torture or cruel, inhuman or degrading treatment occurred in the State to which a person was rendered, grave concerns could be raised with regard to refoulement. In the delegation's view, had the investigation taken into account other security forces of the State party and other aspects of State party actions, as well as the possible complicity of any other State on the territory of the State party? Furthermore, had the Government taken account of the large body of evidence against the State party? He wondered, if it were ascertained that there had in fact been deficiencies in the original investigation, whether the Government would consider a full re-examination of Mr. al-Masri's case and compensation in that context. Finally, what systems had been put in place to prevent similar situations from occurring in the future?

36. **Mr. Pérez Sánchez-Cerro** enquired whether the Law on Amnesty had had the effect of halting the prosecution of high-level officials and members of the security forces who had been accused of serious human rights violations during the conflict in 2001 and 2002. Persons responsible for human rights abuses should be prosecuted under the law and under no circumstances benefit from amnesty. He asked the delegation to address the reports of police violence against the Roma, including beatings during arrest and detention, and of the mistreatment of Roma students in schools. More information on the treatment of ethnic Albanians was also needed. Several non-governmental organizations had given an account of discrimination against ethnic minorities with respect to health services, employment, housing and other matters. He noted with concern that there was no effective system of appeal for rejected asylum-seekers, especially as second-instance procedures were subject to pressure from the Ministry of the Interior.

37. **Mr. Amor** said that he was shocked at the requirement of proof of penetration and active resistance by victims to secure a rape conviction under the law, as it reflected the arguments often put forward by rapists in trials. Any attempted rape was an attack on a woman's dignity. That requirement was contrary to articles 2, 3, 14 and 26 of the Covenant. He enquired whether any studies had been conducted as to how women were regarded in society and whether the Government had taken measures to combat stereotyped and misogynist images of them. Concerning article 11 of the Covenant, it was stated in paragraph 256 of the report that the law prohibited deprivation of liberty on the grounds of a person's inability to fulfil a contractual obligation. Nevertheless, it was unclear whether the inability to fulfil a contractual obligation could still be criminally prosecuted. Clarification was needed on the extent to which article 11 had been taken into account in the positive law and case law of the State.

The meeting was suspended at 12.25 p.m. and resumed at 12.40 p.m.

38. **Ms. Geleva** (the former Yugoslav Republic of Macedonia) said that Parliament was currently discussing ways of ensuring that the Office of the Ombudsman enjoyed adequate funding to protect its independence in accordance with the Paris Principles.

39. **Mr. Manevski** (the former Yugoslav Republic of Macedonia) said that his Government was grappling with the problem of corruption on a daily basis. Corruption of all kinds, including petty corruption, undermined democratic development and was prejudicial to the interests and rights of citizens. Petty corruption often amounted cumulatively to corruption on a large scale. For example, in early April some 70 transportation officials would be tried for misappropriation of public funds amounting to some €5 million in all. There had also been prosecutions of customs officials charged with corruption. His Government was therefore making every effort to combat corruption at all levels.

40. **Ms. Trencevska** (the former Yugoslav Republic of Macedonia) said that there were not enough women

in the Government. However, one priority objective set in the National Plan for Ensuring Equal Access for Women in Politics and in Other Areas of Policy and Decision-Making was to increase the number of women in decision-making positions. The number of women in managerial positions in the private sector had improved significantly in recent years. Regrettably, stereotyped views of the place of women in society persisted. However, the Government had been endeavouring to eliminate such views, inter alia by encouraging local self-government bodies to promote gender mainstreaming of their policies. Those bodies had subsequently developed action plans at the local level to overcome stereotypes and prejudices, taking into consideration the specific characteristics of the local communities. The Government was also working with the news media to increase awareness of the need for a gender dimension in the dissemination of information. Journalists and editors had participated in the "Women can do it" project of the European Forum for Democracy and Solidarity, which had increased media awareness of gender issues. The Law on Equal Opportunities for Men and Women provided for gender mainstreaming in the area of education. In March 2008, the Ministry of Education had launched a project to promote gender-sensitive education, including the training of primary-school teachers. Textbooks would also be reviewed to eliminate gender-based stereotypes.

41. **Mr. Zafirovski** (the former Yugoslav Republic of Macedonia) said that police officers had specific tasks and obligations. They must protect fundamental freedoms and human rights as well as prevent violence against citizens. Police authority was very strictly regulated by law. There were two levels of control over the work of police officers: police superintendents, who had direct knowledge of daily operations, and the Sector for Internal Control and Professional Standards within the Ministry of the Interior. Complaints regarding the alleged use of unlawful force by the police were investigated without exception or selectivity. Officers found guilty of offences under the Code of Police Ethics were punished in accordance with the relevant legislation.

The meeting rose at 12.55 p.m.